

Minutes
Catawba County Board of Commissioners
Regular Session, Monday, August 18, 2003, 7:00 p.m.

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The Catawba County Board of Commissioners met in regular session on Monday, August 18, 2003, 7:00 p.m., at the Government Center, Second Floor Meeting Room, 100A South West Boulevard, Newton, North Carolina. (The location change was due to use of the 1924 Courthouse grounds for Soldiers Reunion festivities.)

Present were Chair Katherine W. Barnes, Vice-Chairman Dan A. Hunsucker, Commissioners Glenn E. Barger, Barbara G. Beatty, and Lynn M. Lail.

Absent: N/A

A quorum was present.

Also present were County Manager/Deputy Clerk J. Thomas Lundy, Assistant County Manager Mick W. Berry, County Attorney Robert Oren Eades, Staff Attorney Debra Bechtel, and County Clerk Thelda B. Rhoney.

1. Chair Barnes called the meeting to order at 7:00 p.m.
2. Commissioner Hunsucker led in the Pledge of Allegiance to the Flag.
3. Invocation offered by Commissioner Barnes.
4. Commissioner Hunsucker made a motion to approve the minutes from the regular session and closed session of Monday, August 4, 2003. The motion carried unanimously.
5. Special Guests and Public Comment.

Chair Barnes announced that the Personnel Department received two awards at the recent North Carolina Association of County Commissioners (NCACC) Conference. The Ketner Productivity Award and the Most Innovative Program Award were presented to Catawba County for its Employee Health Clinic.

Commissioner Hunsucker said Chair Barnes was elected Second Vice President of the NCACC.

6. Public hearings:

- a. Installment Financing for the Construction and Equipping of Public School Facilities.

Finance Director Rodney N. Miller said Catawba County has historically financed school construction through General Obligation Bonds, which is normally the least expensive method to finance school construction in North Carolina. With interest rates at all-time lows, the County explored other methods to finance the Middle School B project, such as financing described under G.S. 160A-20. This type of financing pledges the asset acquired or constructed as collateral for the loan in case of default. There are two financing methods to consider under this legislation: Certificates of Participation (COP's) and Installment Purchase Financing. With both methods, since the County does not own the land upon which the Middle School will be built, the Hickory City Board of Education must convey the land to the County in order for the County to borrow the funds for the new school. The County will, in turn, lease the new school and land to the Board of Education for its use, and at the end of the financing term, transfer all rights to the property back to the school system. Installment Purchase Financing is less expensive as long as the borrowed funds and any other debt financing that occurs in the same calendar year total less than \$10 million. For Catawba County, no other debt has been, or will be issued in this calendar year. To take advantage of lower financing costs and a more favorable interest rate, the County will borrow funds from Bank of America for \$9.9 million through an Installment Purchase Contract. Cost savings by choosing this method are estimated between \$500,000 - \$600,000 over 15 years. All local governments in North Carolina that borrow funds greater than \$500,000 or longer than five years to maturity must receive approval by the Local Government Commission (LGC), a division of the NC Department of State Treasurer. The LGC will consider this project at its September 2, 2003 meeting in Raleigh. The Board of Commissioners, at its July 7, 2003 meeting approved the construction of Hickory Middle School B in the southern part of the Hickory City School district, financed through an installment purchase contract. On August 4, 2003, the Board accepted the financing proposal from Bank of America for \$9.9 million at a rate of 3.54 percent for 15 years and called for a public hearing to be held on August 18, 2003, at 7:00 p.m. Mr. Miller requested that the Board adopt a resolution making certain findings and determinations regarding the financing, seek approval from the Local Government Commission for the financing arrangement and authorize

the execution of an installment financing agreement, a deed of trust, a construction and acquisition agreement, a lease agreement and related documents in connection with the installment financing.

Chair Barnes announced that this was the hour and day of the public hearing on the proposed acquisition by the County of certain property for use by the Board of Education of the Hickory Administrative School Unit for school purposes. Such public hearing is being held pursuant to Section 153A-158.1 and Section 160A-20 of the General Statutes of North Carolina. Such property acquisition by the County would be in furtherance of a proposed plan of finance whereby the County would enter into an installment financing agreement pursuant to Section 160A-20 of the General Statutes of North Carolina in a principal amount not to exceed \$9,900,000 for the purpose of financing a portion of the cost of constructing and equipping a new public middle school for the Hickory City School District (the "Project"). The site of the Project will be conveyed to the County by the Board of Education of the Hickory Administrative School Unit, and the County will execute and deliver a deed of trust granting a lien on the Project to secure its obligations under the installment financing agreement. The Project will then be leased back to the Board of Education of the Hickory Administrative School Unit to be used for school purposes. Such lease will be subordinate to the lien created by the deed of trust.

The Chair acknowledged due publication of a notice of public hearing in a newspaper with a general circulation in said County as required by Section 153A-158.1 and Section 160A-20 of the General Statutes of North Carolina.

Chair Barnes then announced that the Board of Commissioners would immediately hear anyone who might wish to be heard on the advisability of the proposed Project, financing and conveyance as so described.

No one spoke and no statements were received.

Thereupon, Chair Barnes introduced the following resolution the title of which was read and copies of which had been distributed to each Commissioner:

RESOLUTION NO. 2003-35.5

RESOLUTION MAKING CERTAIN FINDINGS AND DETERMINATIONS REGARDING THE FINANCING OF PUBLIC SCHOOL IMPROVEMENTS PURSUANT TO AN INSTALLMENT FINANCING AGREEMENT, REQUESTING THE LOCAL GOVERNMENT COMMISSION TO APPROVE THE FINANCING ARRANGEMENT AND AUTHORIZING THE EXECUTION AND DELIVERY OF AN INSTALLMENT FINANCING AGREEMENT, A DEED OF TRUST, A CONSTRUCTION AND ACQUISITION AGREEMENT, A LEASE AGREEMENT AND RELATED DOCUMENTS IN CONNECTION WITH SUCH INSTALLMENT FINANCING FOR PUBLIC SCHOOL IMPROVEMENTS

BE IT RESOLVED by the Board of Commissioners (the "Board") for the County of Catawba, North Carolina (the "County") as follows:

Section 1. The Board does hereby find and determine as follows:

(a) The Board of Education of the Hickory Administrative School Unit (the "Board of Education"), the governing board of the Hickory City local school administrative unit, has determined that a need exists for constructing and equipping a new public middle school for the Hickory City School District (the "Project") and has requested capital funding therefore.

(b) The Project is hereby ratified and approved.

(c) After a public hearing and due consideration, the Board has determined that the most efficient manner of financing the Project will be through the County entering an Installment Financing Agreement (the "Agreement") with Bank of America, N.A. (the "Bank") pursuant to Section 160A-20 of the General Statutes of North Carolina, as amended. Pursuant to the Agreement, the Bank will advance moneys to the County in an amount sufficient to pay, together with other available funds, the costs of the Project, and the County will repay the advancement in installments, with interest (the "Installment Payments").

- (d) In order for the County to enter into the plan of finance, the site of the Project will be conveyed by the Board of Education to the County.
- (e) In order to secure the performance of the County's obligations under the Agreement, the County will execute and deliver a Deed of Trust (the "Deed of Trust"), granting a lien on the site of the Project and all improvements and fixtures located and to be located thereon (the "Mortgaged Property").
- (f) In order to facilitate the construction of the Project, the County will enter into a Construction and Acquisition Agreement (the "Construction Agreement") with the Board of Education providing for the supervision of construction of the Project by the Board of Education.
- (g) The Mortgaged Property will be leased back to the Board of Education pursuant to a Lease Agreement (the "Lease Agreement") between the County and the Board of Education, which Lease Agreement will be subordinate to the lien created by the Deed of Trust.
- (h) There has been presented to the Board forms of the following documents relating to the transaction hereinabove described:
- (1) the Agreement;
 - (2) the Deed of Trust;
 - (3) the Construction Agreement; and
 - (4) the Lease Agreement.
- (i) It is in the best interest of the County to enter into the Agreement, the Deed of Trust, the Construction Agreement and the Lease Agreement in that such transaction will result in providing financing for much needed public school improvements in an efficient and cost effective manner;
- (j) Entering into the Agreement is preferable to a general obligation bond and revenue bond issue in that (i) the County does not have the constitutional authority to issue non-voted general obligation bonds pursuant to Article V, Section 4 of the North Carolina Constitution because the County has not retired a sufficient amount of debt in the preceding fiscal year to issue a sufficient amount of general obligation bonds for the Project without an election; (ii) the nature of the financing does not allow for the issuance of revenue bonds; (iii) the cost of the Project exceeds the amount to be prudently provided from currently available appropriations and unappropriated fund balances; (iv) the circumstances existing require that funds be available to commence construction of the Project as soon as practicable and the time required for holding an election for the issuance of voted general obligation bonds pursuant to Article V, Section 4 of the North Carolina Constitution and the Local Government Bond Act will delay the commencement of construction of the Project by several months; and (v) there can be no assurances that the Project will be approved by the voters and the necessity of such Project dictates that the Project be financed by a method that assures that such Project will be constructed in an expedient manner;
- (k) It has been determined by the Board that the cost of financing the Project through an installment financing agreement is reasonable comparable to the costs of issuing general obligation bonds or other available methods of financing and is acceptable to the Board;
- (l) Counsel to the County will render an opinion to the effect that the proposed undertaking as described above is authorized by law and is a purpose for which public funds may be expended pursuant to the Constitution and laws of the State of North Carolina;
- (m) The debt management policies of the County have been carried out in strict compliance with law, and the County is not in default under any obligation for repayment of borrowed money; and
- (n) The County intends to make the Installment Payments under the Agreement from tax revenues, and any increase in taxes necessary to meet the sums to fall due under the proposed Agreement will not be excessive.

Section 2. The Board hereby ratifies and approves the filing of an application with the Local Government Commission for approval of the Agreement and requests the Local Government Commission to approve of the Agreement and the proposed financing in connection therewith.

Section 3. The Board hereby approves the Agreement, the Deed of Trust, the Construction Agreement and the Lease Agreement in substantially the forms presented at this meeting. The Chairman or the Vice Chairman of the Board or the County Manager of the County are each hereby authorized to execute and deliver on behalf of the County each of said documents in substantially the forms presented at this meeting, containing such insertions, deletions and filling in of blanks as the person executing such documents shall approve, such execution to be conclusive evidence of approval by the Board of any such changes. The Clerk or any Deputy or Assistant Clerk to the Board is hereby directed to affix the official seal of the County to each of said documents and to attest the same.

Section 4. No deficiency judgment may be rendered against the County in any action for breach of any contractual obligation under the Agreement or the Deed of Trust, and the taxing power of the County is not and may not be pledged directly or indirectly to secure any moneys due under the Agreement or the Deed of Trust.

Section 5. The Chairman, the Vice Chairman, the County Manager, the Finance Director, the County Attorney and the Clerk to the Board, and any other officers, agents and employees of the County, are hereby authorized and directed to execute and deliver such closing certificates, opinions and other items of evidence as shall be deemed necessary to consummate the transactions described above, including (a) the execution of any necessary financing statements relating to fixtures located on the Mortgaged Property, (b) the execution of any documents necessary for the conveyance of the site of the Project to the County and (c) the filing of a Form 8038-G with the Internal Revenue Service in connection with the financing.

Section 6. The County hereby represents that it reasonably expects that it and all entities issuing obligations on behalf of the County and all subordinate entities of the County will not issue in the aggregate more than \$10,000,000 of tax-exempt obligations (not counting private activity bonds except for qualified 501(c)(3) bonds as defined in the Internal Revenue Code of 1986, as amended) during calendar year 2003. In addition, the County hereby designates each of the Installment Payments as a "qualified tax-exempt obligation" for the purposes of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended.

Section 7. This resolution shall take effect immediately upon its passage.

This 18th day of August, 2003.

/s/ Katherine W. Barnes, Chair
Catawba County Board of Commissioners

Upon motion of Commissioner Barger, the foregoing resolution entitled "Resolution Making Certain Findings and Determinations Regarding the Financing of Public School Improvements Pursuant to an Installment Financing Agreement, Requesting the Local Government Commission to Approve the Financing Arrangement and Authorizing the Execution and Delivery of an Installment Financing Agreement, a Deed of Trust, a Construction and Acquisition Agreement, a Lease Agreement and Related Documents in Connection with Such Installment Financing for Public School Improvements" was passed by the following vote:

Ayes: Barnes, Hunsucker, Barger, Beatty, and Lail

Noes: None

- b. Proposed amendments to Chapter 16, Article II, Removal and Disposal of Abandoned and Junked Motor Vehicles Ordinance.

Planning Director Jacky M. Eubanks said on April 6, 1987, Catawba County adopted an Abandoned and Junked Vehicles Ordinance. Presently the Catawba County Sheriff's Office is responsible for the enforcement of this ordinance. The Planning Department takes the initial complaint, makes a site visit and follows up with a letter instructing the vehicle owner to remove the vehicle(s) within 15 days. If the

property owner does not contact the Planning Office, a follow up visit is made. If the violation still exists, the case is referred to the Sheriff's Office. At that time, the Sheriff notifies the property owner and gives a deadline in which they must comply with the Abandoned and Junked Vehicle Ordinance. If the property owner takes no action, the vehicle can then be towed.

This ordinance defines what an abandoned or junked motor vehicle is, the process for notification to vehicle owner to remove the vehicle and the towing of the vehicle, if not removed or stored in an enclosed building by the owner.

This process has not proven to be effective in obtaining compliance of the junk vehicle complaints. If the County has to tow the vehicle, the towing cost has to be considered along with the storage fee (30 days). The approximate cost for the towing and storage of one vehicle would be between \$225 and \$275. As of the date of this memo, Catawba County has 107 pending abandoned and junked vehicle violations. For an example, the average complaint will have 2 junked or abandoned vehicles on the property. If the County removed the vehicles from the property, towing and storage cost would be well over \$50,000.

Staff reviewed 11 city and county Abandoned and Junked Vehicle Ordinances. Staff proposes streamlining the process, adding language into the ordinance that would set up a process in which the County can assess a penalty of \$50.00 per day to the owner of the vehicle for noncompliance and seek compliance of the violation and the collection of the fine in the form of a civil penalty.

There was no one present at the public hearing before the Planning Commission on July 28, 2003, to speak either for or against the proposed amendment. After much discussion, the Planning Commission recommended to the Board of Commissioners the approval of a proposed ordinance for the Removal and Disposal of Abandoned and Junked Motor Vehicles.

Because of the number of changes to this ordinance, staff recommended the deletion of Chapter 16, Article II Removal and Disposal of Abandoned and Junked Motor Vehicle Ordinance and replace it with the adoption of the following ordinance.

Ordinance No. 2003-16

BE IT ORDAINED that Chapter 16, ENVIRONMENT, ARTICLE II. REMOVAL AND DISPOSAL OF ABANDONED AND JUNKED MOTOR VEHICLES, Sections 16-26 - 16-40 be deleted in its entirety and replaced with the following Sections 16-26 - 16-38:

ARTICLE II. REMOVAL AND DISPOSAL OF ABANDONED AND JUNKED MOTOR VEHICLES

- Sec. 16-26. Short title.
- Sec. 16-27. Authority and purpose.
- Sec. 16-28. Jurisdiction.
- Sec. 16-29. Administration.
- Sec. 16-30. Definitions.
- Sec. 16-31. Abandoned vehicle unlawful; removal authorized.
- Sec. 16-32. Nuisance vehicle unlawful; removal authorized.
- Sec. 16-33. Right to enter premises.
- Sec. 16-34. Junked motor vehicles regulated; removal authorized.
- Sec. 16-35. Enforcement provisions.
- Sec. 16-36. No liability.
- Sec. 16-37. Exceptions.
- Sec. 16-38. Changes in state law.
- Sec. 16-39 - 16-65. Reserved.

Sec. 16-26. Short title.

This article shall be known as the Abandoned and Junked Vehicle Ordinance for Catawba County and may be referred to as the "Abandoned and Junked Vehicle Ordinance."

Sec. 16-27. Authority and purpose.

This article is enacted pursuant to the powers granted to the county by G.S. 153A-121, 153A-132 and 153A-132.2. The purpose of this article is to protect the health, safety and general welfare of the citizens of the county, natural scenic beauty, and property values, of the county from potential adverse effects caused by the proliferation and improper disposal of junked motor vehicles.

Sec. 16-28. Jurisdiction.

In accordance with G.S. 153A-122, this article applies to and is enforceable in any part of the county which is not within a city. However, the governing board of any city within the county may by resolution permit this article to be enforced within the city. The board of commissioners shall by motion accept the resolution by the city and set the date and terms of enforcement of this article within the city. Further, the city may by resolution withdraw its permission to enforce this article within the city. However, the city shall give the county written notice of its intent to withdraw permission.

Sec. 16-29. Administration.

The planning director for the county, or designee, shall be responsible for the administration and enforcement of the provisions of this article.

Sec. 16-30. Definitions.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Abandoned vehicle means any motor vehicle that is left:

- (1) Upon a public street or highway in violation of a law or ordinance prohibiting parking; or
- (2) On a public street or highway for longer than seven days; or
- (3) On property owned or operated by the county for longer than 24 hours; or
- (4) On private property without the consent of the owner, occupant or lessee thereof, for longer than two hours.

Enclosed building means a garage or building structure that provides a complete enclosure (all sides of building enclosed) so that the contents of the building cannot be seen from a street or from adjacent property.

Junked motor vehicle means any motor vehicle that does not display a current North Carolina license plate that:

- (1) Is partially dismantled or wrecked; or
- (2) Cannot be self-propelled or moved in the manner in which it originally was intended to move; or
- (3) Is more than five years old and appears to be worth less than \$100.

Magistrate means the magistrate for the county in the warrant issuing office in the county seat, or in any other office designated to receive requests by the chief district court judge.

Motor vehicle or vehicle means all machines designed or intended to travel over land or water by self-propulsion or while attached to a self-propelled vehicle.

Nuisance vehicle means a vehicle on public or private property that is determined and declared to be a health or safety hazard, a public nuisance, and unlawful, including a vehicle found to be:

- (1) A breeding ground, nest or harbor for mosquitoes, other insects, rats or other pests;
- (2) A point of heavy growth of weeds or other noxious vegetation over eight inches in height;
- (3) A point of collection of pools or ponds of water;
- (4) A point of concentration of quantities of gasoline, oil or other flammable or explosive materials;

- (5) One that has areas of confinement that cannot be opened or in the alternative, operated from the inside of the area of confinement, such as trunks, hoods, etc.;
- (6) So situated or located that there is a danger of the vehicle falling, dislodging or turning over;
- (7) One which is a point of collection of refuse, trash, garbage, food waste, animal waste, or any other rotten or decaying matter of any kind;
- (8) One which has parts which are jagged or contain sharp edges of metal, plastic or glass; or
- (9) Any other vehicle specifically declared a health and safety hazard and a public nuisance by the planning director.

Planning director means the planning director or designee, for the county.

Sheriff means the sheriff of the county.

Vector means any organism that carries disease-causing micro-organisms from one host to another (i.e. rats, mosquitoes, etc.).

Sec. 16-31. Abandoned vehicle unlawful; removal authorized.

- (a) It shall be unlawful for the registered owner or person entitled to possession of a motor vehicle or for the owner, lessee, or occupant of the real property upon which the vehicle is located to leave, or allow the vehicle to remain on the public property after it has been declared an abandoned vehicle.
- (b) If a motor vehicle is abandoned on public property as defined in Sec. 16-30, the board of commissioners may direct the sheriff, or designee to removal the vehicle to a designated storage area determined by the sheriff.

Sec. 16-32. Nuisance vehicle unlawful; removal authorized.

- (a) It shall be unlawful for the registered owner, or person entitled to possession of a motor vehicle, or for the owner, lessee, or occupant of the real property upon which the vehicle is located to leave or allow the vehicle to remain on the property after it has been declared a nuisance vehicle.
- (b) Upon investigation, the planning director may determine and declare that a vehicle is a health or safety hazard and therefore a nuisance vehicle, as defined herein, and order the vehicle removed. Notice of the determination made by the planning director may be combined with any other notices required under this article and provided to the registered owner or person entitled to possession of the motor vehicle and/or the owner, lessee or occupant of the real property by first class mail except in situations where a name and address cannot be ascertained, notice may be given by affixation on the windshield or some other conspicuous place on the vehicle.
- (c) In cases where it is impractical or impossible to find and/or prosecute the responsible party the county may, at its discretion, have the vehicle towed in accordance with G.S. 153A-132.

Sec. 16-33. Right to enter premises.

The planning director shall have the right, upon presentation of proper credential and identification, to enter any premises within the jurisdiction of this article during daylight hours to determine if any vehicle is in violation of the Abandoned and Junked Vehicle Ordinance.

Sec. 16-34. Junked motor vehicles regulated; removal authorized.

- (a) All junked vehicles shall be kept in a garage or building structure that provides a complete enclosure so that they cannot be seen from a public street or from adjacent property. For purposes of this ordinance, a garage or building structure means either a lawful, nonconforming use or a garage or building structure erected pursuant to the lawful issuance of a building permit and which has been constructed in accordance with all zoning and building code regulations. A carport shall not be treated as an acceptable garage or enclosure under this ordinance.

(b) It shall be unlawful for the registered owner, or person entitled to the possession of a junked motor vehicle, to place, store, leave or allow a vehicle to remain on any property in violation of this ordinance or to allow a vehicle to remain on any property after the vehicle has been ordered removed from that property.

(c) It shall be unlawful for the owner, lessee or occupant of the real property, upon which a junked motor vehicle is located, to leave, or allow the vehicle to remain on the property in violation of this ordinance after the vehicle has been ordered removed.

Sec. 16-35. Enforcement provisions.

The planning director shall enforce this ordinance. He may call upon other agencies as necessary to assist in the enforcement of this ordinance.

(a) Whenever the planning director receives a complaint alleging a violation of this ordinance, he shall investigate the complaint and take whatever action is warranted.

(b) The owner, tenant, or occupant of any building or land or part thereof and agent or other person who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this ordinance may be held responsible for the violation and suffer the penalties and be subject to the remedies herein provided.

(c) The following procedure shall apply upon discovery of a violation:

(1) If the planning director finds that any provision of the ordinance is being violated, he shall send a written notice to the person responsible for such violation, indicating the nature of the violation, ordering the action necessary to correct it, and advising the violator of the number of days within which the violation shall be corrected.

(2) Notwithstanding the foregoing, in cases that pose an immediate danger to the public's health, safety, or general welfare, the planning director may seek enforcement without proper written notice by invoking any of the penalties or remedies authorized in this section.

(d) The county may assess civil and criminal penalties as follows:

(1) Violation shall subject the violator to a civil penalty in the amount of \$50.00. Each day that any violation continues after notification, shall be considered a separate offense.

(2) A violation of this article shall be a criminal misdemeanor, punishable by a fine of up to \$500.00 or a maximum 30 days imprisonment as provided in G.S. 14-3 (3) and G.S. 14-4. Each day that any violation continues after notification by the planning director shall be considered a separate offense.

(3) In addition to the foregoing enforcement provisions, this article may be enforced by any remedy provided in G.S. 153A-123, including, but not limited to, all appropriate equitable remedies provided in G.S. 153A-123 (d) and particularly the remedy of injunction and order of abatement as allowed in G.S. 153A-123(e).

Sec. 16-36. No liability.

The county may not, nor any person acting on behalf of the county in the enforcement of this article, be held to answer in a civil or criminal action to any owner or other person legally entitled to the possession of an abandoned, junked, lost or stolen vehicle for the enforcement of this ordinance.

Sec. 16-37. Exceptions.

This article does not apply to any motor vehicle that is located:

(a) In an enclosed building.

(b) On the premises of a business enterprise being legally maintained and operated primarily for the purpose of making repairs to motor vehicles or wholesale or retail sales of items or parts routinely used in motor vehicles, in a lawful place and manner if the vehicle is necessary to the operation of the business.

(c) On the premises of a business enterprise being operated in a lawful place and manner if the vehicle is necessary to the operation of the enterprise or needed in the operation of a bona-fide farm.

(d) In an appropriate storage place or depository maintained by the county.

Sec. 16-38. Changes in state law.

Should G.S 153A and G.S. 153A-132.2 or any other section of the general statutes incorporated herein by reference or otherwise referred to herein be changed or amended, or should such statutes require or mandate a different procedure or change or impose new, different or additional requirements, then, in that event, this ordinance shall be deemed to have been amended without further action to have complied with such new, additional or amended requirements.

This 18th day of August, 2003.

/s/ Katherine W. Barnes, Chair
Catawba County Board of Commissioners

Chair Barnes opened the public hearing by saying this was the time and place as advertised for the public hearing and asked if anyone wished to speak either for or against.

Mr. James Stancil, 4916 Leepers Creek Road, Maiden, NC said the junk dealers/operators will pick up the vehicles free of charge and some will pay money to pick them up. He said the only thing to be concerned about is having a vehicle removed that belongs to someone else.

There being no one else wishing to speak, Chair Barnes closed the public hearing.

After a lengthy discussion, Commissioner Lail made a motion to adopt the aforementioned Junked Motor Vehicles Ordinance. The motion carried unanimously.

Chair Barnes recommended that the Planning Director report on the effectiveness of the ordinance periodically.

c. Proposed revisions to Chapter 44, Article X, Special Use, Section 44-362, Kennels.

Planning Director Jacky M. Eubanks said on April 28, 2003, the Planning Board heard concerns from Sherry Stancil, a citizen, regarding the acreage and setback requirements for Kennels as a special use in the R-2 and R-3 Residential Districts. At that time the Planning Board directed staff to reassess the Special Use criteria regarding Kennels with possible revisions either creating a sliding scale based on the number of animals allowed in the kennel and/or reduction of setbacks and acreage.

Mr. Eubanks reviewed the current special use provisions and said staff had researched surrounding counties of similar size.

The current ordinance was adopted on September 17, 2001, after staff had carried out a reasonable amount of background research. Given the minimum number of potential kennel requests that the Planning staff is aware of and given the fact that the current ordinance has not been tested to a significant degree, it is too early to determine if the current ordinance is "bad law." Based upon the lack of ground swell support for an ordinance change, staff did not recommend a change to the current ordinance at this time. Staff did furnish the Planning Board with proposed text language as directed at its April 2003 Planning Board meeting.

James and Sherry Stancil of 4916 Leepers Creek Road, Maiden, NC spoke to the Planning Board in favor of amending the current regulations concerning kennels. Mrs. Stancil stated that she felt the five acre minimum lot size and the 150 ft. setback would be in line with the regulations of surrounding counties, but felt that requiring the exercise areas to be indoors would not be good for the animals. Mrs. Stancil stated that she felt that some provision should be made to exercise the animals out of doors.

The Planning Board recommended the following amendments to Section 44-362 Kennels:

Proposed Ordinance No. 2003-____

BE IT ORDAINED that the Catawba County Code of Ordinances, Chapter 44, Zoning, Article X.

SPECIAL USES, DIVISION 2. STANDARDS FOR INDIVIDUAL SPECIAL USES, Sec. 44-362. Kennels, is hereby amended to read as follows:

Sec. 44-362. Kennels.

(a) The following standards shall be used in deciding applications for approval of this use, when the kennels, will accommodate more than 25 animals in accordance with the kennel definition.

- (1) There shall be a minimum lot size of ten acres.
- (2) All activities, with the exception of animal exercise areas, shall be conducted within an enclosed building.
- (3) A 300-foot separation shall be maintained between the kennel, including exercise area, and any residential property line.
- (4) The disposal methods for wastes generated shall be reviewed and approved by the environmental health section of the county health department.
- (5) A group 2 buffer shall be provided pursuant to section 44-151 pertaining to buffers and screening.

(b) The following standards shall apply when the kennel will accommodate 25 or less animals in accordance with the kennel definition, if the kennel is constructed to entirely enclose all kennel facilities and associated activities, except animal exercise areas, so as to adequately protect all animals from weather extremes and demonstrate that the building in which the animals are kept will not allow sound to be transmitted to the adjacent residential property.

- (1) There shall be a minimum lot size of five acres.
- (2) A 150-foot separation shall be maintained between the kennel and all property lines.
- (3) Verification of soundproofing from the registered architect or engineer designing the kennel.
- (4) Where exercise areas are intended to be open, all animals must be on a leash or in a separate fenced run within the setback.
- (5) The disposal methods for wastes generated shall be reviewed and approved by the environmental health section of the county health department.
- (6) A group 2 buffer shall be provided per section 44-151 buffers and screening.

Chair Barnes opened the public hearing by saying this was the time and place as advertised for the public hearing and asked if anyone wished to speak either for or against.

Ms. Sherry Stancil, 4916 Leepers Creek Road, Maiden described her property and said Catawba County is more out of line than any surrounding counties and most counties require five acres to open a commercial kennel. She owns eight acres and said she would need 10 acres to open a dog kennel. She has tried to purchase adjoining property without success. She said she could have a horse farm with riding stables, a landing strip and as many as 25 beagle dogs if not breeding, selling or using for commercial purposes. Once turned into a commercial business she could only have six dogs. She further described the legal limits for kennels. She said there are a lot of requirements for a small kennel as opposed to no requirements for a large kennel. She said with the state of the economy that small businesses should be welcomed in Catawba County.

Mr. Elmer Lutz, 2418 Settlemyre Bridge Road, Newton said he has a neighbor who has less than an acre of land and he has dogs and sells puppies from time to time. He said the noise, odor and flies is not good. He said he agreed with Ms. Stancil and thinks the ordinance needs to be looked at because property owners can have 20 dogs if they are not breeding or selling commercially.

There being no one wishing to speak, Chair Barnes closed the public hearing.

After a lengthy discussion, Commissioner Beatty made a motion to table the proposed code amendment on Kennels, and recommended that staff further look at the definition of kennels, and she would like to visit a qualified kennel. The motion carried unanimously.

7. Appointments:

Catawba County Criminal Partnership Advisory Board

Commissioner Hunsucker recommended the reappointments of Al Jean Bogle (Clerk of Superior Court); Gregory R. Hayes (District Court Judge); L. David Huffman (Sheriff); and Floyd W. Lucas, Jr. (Hickory Police Chief) and the appointments L. Oliver Noble, Jr. (Criminal Defense Attorney category - change from Senior

Resident Superior Court Judge); James C. Gaither, Jr. (District Attorney); Kitty Barnes (Commissioner); Joe Hatley (Member of Community, Victim of Crime); and Nathan Poovey (Senior Resident Superior Court Judge - change from Criminal Defense Attorney). The appointments/reappointments are three year terms and will expire June 30, 2006.

Conover Planning Board

Commissioner Hunsucker recommended the reappointment of Ken R. Hilderbran for a third term, 3-year term, which will expire June 30, 2006.

Hickory Regional Planning Commission

Chair Barnes recommended the reappointment of Ed Mitchell for a third, 3-year term which will expire June 30, 2006.

Nursing & Rest Home Community Advisory Committee

Commissioner Lail recommended the reappointments:

Grace McLeod for a second term which will expire July 8, 2006

Lucille Woodrum for a second term which will expire August 5, 2006

Robert Hall for a third term which will expire October 18, 2006

Commissioner Hunsucker made a motion to approve the aforementioned appointments. The motion carried unanimously.

8. Consent agenda:

County Manager J. Thomas Lundy presented the following consent agenda items:

a. Vaccine Rate Changes.

Mr. Lundy said the Finance and Personnel Subcommittee recommended that the Board of Commissioners approve rate increases for vaccines that reflect the increase in Medicaid rates and costs. The Public Health fee policy states that rates are based on Medicaid Rates for Local Health Departments, and where service cost is higher than the Medicaid rate, charge is based on the actual cost. Following are service prices that are not only driven by Medicaid reimbursement of clinical fees, but are offered to the general public.

CATAWBA COUNTY HEALTH DEPARTMENT VACCINE RATE CHANGES EFFECTIVE 9/1/03

DESCRIPTION	OLD	NEW	CHANGE	Reason for Change:
VACCINE ADMINISTRATION - 1	5.00	8.00	3.00	Medicaid went up \$2.81
VACCINE ADMINISTRATION - 2 +	5.00	6.00	1.00	Medicaid went up \$0.86
HEPATITIS A (ADULT)	30.00	32.00	2.00	Price increase in vaccine cost to administer
HEPATITIS A (PEDIATRIC)	25.00	28.00	3.00	Medicaid went up \$6.18 - we only adjusted to cost.
HEPATITIS B (ADULT)	35.00	42.00	7.00	Medicaid went up \$3.80 - and vaccine cost increased
HEPATITIS B (PEDIATRIC)	23.00	24.00	1.00	Medicaid went up \$4.11 - we only adjusted to cost.
HEP B - CO EMPLOYEE	23.25	23.50	0.25	Charge of vaccine cost only - usually paid by Agency/Dept.
M.M.R.	37.00	40.00	3.00	Price increase in vaccine cost to administer
POLIO - IPV	30.00	32.00	2.00	Price increase in vaccine cost to administer
RABIES PRE/POST-EXP VAC (1 ML)	159.00	162.00	3.00	Medicaid went up \$35.93 we already had higher price based on cost
RABIES - RIG (1 ML) - HT	92.00	162.00	70.00	Medicaid went up \$74.06 - we adjusted to cost
RABIES - RIG (1 ML)	92.00	162.00	70.00	Medicaid went up \$74.06 - we adjusted to cost
INFLUENZA VACCINE	10.00	12.00	2.00	Medicaid went up \$2.86 - we only adjusted to cost.

b. Waiver of Solid Waste Disposal Fees for Lake Hickory Association for Participation in Litter Sweep Weeks in September.

The Lake Hickory Association as part of the State's and Catawba County's Litter Sweep Program will sponsor its annual waterway cleanup event on Lake Hickory and Lake Lookout on September 20, 2003. Mr. James "Jim" Carr has requested a waiver of solid waste disposal fees for two, 20 cubic yard

waste containers. Garbage Disposal Service/Republic Waste will donate the cost of the containers and hauling of the containers to the Blackburn Landfill. The Policy and Public Works Subcommittee recommended that the Board of Commissioners waive the solid waste tipping fees.

Commissioner Hunsucker made a motion to approve the consent agenda. The motion carried unanimously.

End Consent Agenda

9. Departmental Reports:

a. Budget:

1. CVCC East Campus - Façade.

Budget Manager Judy V. Ikerd said the Board of Commissioners at its January 21, 2003, regularly scheduled meeting approved a Loan Agreement with CVCC for the Hickory Metro Higher Education Center (HMHEC) in the amount of \$350,000 with \$200,000 for the improvements to the East Campus façade. A low bid of \$284,600 was received for improvements to the façade including Architect fees of \$15,010 plus contingency of \$12,885 for a total of \$312,495 for the project. Discussions with the architect indicated a number of changes in the original bid could be made which would reduce the project costs and based on the Architect's recommendations, the revised project cost was \$285,595. CVCC requested a transfer of \$52,770.93 from completed Capital Outlay projects and funds from Schools' Capital Projects Fund Balance in the amount of \$32,825 to complete the East Campus façade. The Finance and Personnel Subcommittee recommended approval of the requests.

Dr. Cuylar Dunbar said CVCC is excited about the Higher Education Center and introduced Mr. Sills.

Architect Ernie Sills distributed copies of a drawing and reviewed the drawing of the proposed façade. He recommended that three feet be added to the top of the façade to hide the air conditioning equipment and fans.

Transfer of Appropriations:

From		To	
420-750100-862200-34100-3-10	\$ 7,499.00	420-750100-862200-34100-3-03	\$52,770.93
Enclose Breezeway		Higher Metro Higher Ed Center	
420-750100-862200-34100-3-11	\$23,200.00		
Chiller			
420-750100-862200-34100-3-24	\$21,039.92		
Chiller			
420-750100-862200-34100-3-25	\$ 1,022.73		
Cushioned/Waterproof Floor			
420-750100-862200-34100-4-04	\$ 9.28		
Jacobson Utility Truck			
Total	\$52,770.93	Total	\$52,770.93
Increase:			
420-750100-862200-34100-3-03	\$32,825		
Higher Metro Higher Ed Center			
Increase:			
420-750050-690100	\$32,825		
Schools' Capital Projects			
Fund Balance Applied			

After a brief discussion, Commissioner Barger made a motion to transfer \$52,770.93 from completed Capital Outlay projects and funds from Schools' Capital Projects Fund Balance in the amount of \$32,825 to complete the East Campus façade. The motion carried unanimously.

b. Economic Development:

1. Resolution endorsing Future Forward Study.

Catawba County Economic Development Corporation President Scott Millar said the proposed resolution supports the study of the Economic Development Strategy and Action Plan prepared for Future Forward Leadership Committee, Comprehensive Economic Development Strategy, and the 10th and 11th Congressional Districts of North Carolina (including 12 counties - Alexander, Avery, Burke, Caldwell, Catawba, Iredell, Lincoln, McDowell, Mitchell, Rutherford, Watauga, and Wilkes).

The 21 member committee, as well as the Center for Regional Economic Competitiveness, Hudson Institute, Eva Klein & Associates, LTD, and UNC Charlotte worked on assessing the economic condition and ways to create an environment conducive to economic development in the short and long term.

Mr. Millar gave a brief overview of the plan and requested the Board adopt a Resolution to support the strategies proposed from the study.

**RESOLUTION NO. 2003-36
RESOLUTION OF ENDORSEMENT
OF THE FUTURE FORWARD ECONOMIC ALLIANCE
REGIONAL ECONOMIC GROWTH STRATEGY**

WHEREAS, in our current global economy the "region" is the foundation of economic competitiveness and prosperity and therefore communities must work cooperatively to enhance a region's wealth; and

WHEREAS, research demonstrates that Western North Carolina is experiencing a transformation in which the region must take a proactive role to ensure it remains economically competitive; and

WHEREAS, the Future Forward Economic Alliance has prepared a Regional Economic Strategy to guide communities in how best to take advantage of existing strengths and opportunities and to identify new opportunities as the region continues its economic transition; and

WHEREAS, all jurisdictions in the region have been invited to collaborate, recognizing that many of the initiatives will require board participation to share resources, assets, leadership, and increase the scale, to maximize the impact on the region; and

WHEREAS, the plan will be implemented and specific tactics addressed through a collaborative effort between public and private organizations which include local, state, and federal agencies such as the Economic Development Administration.

NOW, THEREFORE, BE IT RESOLVED that the Catawba County Board of Commissioners endorses the vision, goals and strategic actions presented in the Future Forward Economic Alliance Regional Economic Growth Strategy as a means of enhancing the region's economic competitiveness and future prosperity.

This 18th day of August, 2003.

/s/ Katherine W. Barnes, Chair
Catawba County Board of Commissioners

After a brief discussion, Commissioner Beatty made a motion to approve the aforementioned resolution of endorsement of the future forward economic alliance regional economic growth strategy. The motion carried unanimously.

c. Tax:

1. Resolution on Revaluation Schedule.

Tax Administrator Randall W. Moose said each year when personal property is listed for taxation, it must be appraised at 100 percent market value as of January 1. The law assumes that the market value of personal property fluctuates rapidly, and therefore mandates that it be examined annually. This annual appraisal may be a simple process, as for an automobile, or it may be highly complex, as in determining an appropriate depreciation rate for unusual industrial machinery.

With regard to real property, however, North Carolina law adopts a different attitude. It assumes that real property values fluctuate less rapidly and, accepting some of the practical arguments against too frequent reappraisals, requires that all real property be reappraised only once every eight years.

NCGS 105-286 divides the counties of the State into eight groups and establishes a base revaluation year for each group. Each county must conduct a general revaluation of real property at least once every eight years. This establishes the minimum level of effort required of the county. However, a county may find it desirable to revalue real property before the end of its current eight-year cycle. The law places no obstacles in the path of a county wishing to do so. Approximately 43 of the State's 100 counties now conduct revaluations more often than is required by law. The legal effect of conducting a revaluation earlier than the law specifies is simply to require the next revaluation take place no later than eight years later. Therefore, the county is not thereafter bound to adhere to the shorter cycle.

Upon a resolution passed by the Catawba County Board of Commissioners June 7, 1999, the last revaluation cycle was accelerated to an effective date of January 1, 2003. Unless a resolution is adopted to again advance the eight-year cycle, the next revaluation will be effective January 1, 2011.

In accordance with NCGS 105-286 (a)(2), "Any county desiring to conduct a reappraisal of real property earlier than required by this subsection (a) may do so upon adoption by the board of county commissioners of a resolution so providing. A copy of any such resolution shall be forwarded promptly to the Department of Revenue. If the scheduled date for reappraisal for any county is advanced as provided here real property in that county shall thereafter be reappraised every eight years following the advance of the date unless, in accordance with the provisions for this subdivision (a) (2), an earlier date shall be adopted by a resolution of the board of county commissioners, in which event a new schedule of octennial reappraisals shall thereby be established for that county."

Mr. Moose reviewed the following reasons staff recommended a four-year revaluation cycle:

1 - More frequent revaluations should eliminate the larger increases in real estate values that historically occur in an eight-year cycle. In other words, the shorter the cycle, the less the overall increase. In our first four-year cycle (1999-2003), overall assessments increased less than 14% as compared to approximately 43% during the last eight-year cycle (1991-1999). Of course, local economic conditions experienced during each cycle also affect these percentages. In addition, the impact reduction on taxpayers was evident due to the much smaller number of appeals heard as a result of the recent four-year revaluation. Informal appeals decreased 22% from the last eight-year cycle (1991-1999), while Board of Equalization and Review hearings dropped 52%.

2 - The level of assessment between personal property and real property remains more equitable by conducting more frequent revaluations. Personal property is valued at 100% every year, while real property is only at 100% on the year of revaluation. Values become very distorted during the eight years between real property reappraisals.

3 - Public service companies receive an automatic reduction in the fourth and seventh years following the last revaluation if the level of assessment drops below 90% as determined by the Department of Revenue. The level of assessment is the percent of value on which the public service companies' tax bills are computed. Revaluations of four years or less eliminate this revenue loss. Catawba County lost \$2,285,253.89 in revenue for the years 1995, 1996, 1997,

and 1998, our last eight-year cycle. By accelerating the most recent cycle to four years (1999 – 2003), the County avoided this loss of revenue.

4 - A more accurate future tax base can be forecast with a reduced period between revaluations.

5 - The Tax Department has expended much effort in developing a trained and experienced staff to conduct the many complex tasks required of a countywide revaluation. Staff did an admirable job conducting the County's first four-year revaluation totally in-house, which became effective January 1, 2003.

The Policy and Public Works Subcommittee recommended that the Board of Commissioners adopt a four-year reappraisal of real property which would be January 1, 2007. With this action, taken in accordance with NCGS 105-286 (a)(2), a new schedule of octennial reappraisals will be established for Catawba County. If the County wishes to continue with the four-year cycle, it must repeat this process

Resolution No. 2003-37
Resolution on Revaluation Schedule

BE IT RESOLVED, the Board of Commissioners for Catawba County has adopted January 1, 2007, for the next reappraisal of real property in Catawba County. With this action, taken in accordance with NCGS 105-286 (a) (2), a new schedule of octennial reappraisals has been established for Catawba County. The succeeding revaluation is scheduled for January 1, 2015.

This the 18th day of August, 2003.

/s/ Katherine W. Barnes, Chair
Catawba County Board of Commissioners

Commissioner Hunsucker made a motion to approve the aforementioned resolution for a four-year revaluation schedule. The motion carried unanimously.

10. Attorneys' Report:

a. Litigation.

Staff Attorney Debra Bechtel reported to the Board that there was a lawsuit filed against the County by Devin Rhodes who had applied for paramedic. Mr. Rhodes was given a conditional offer of employment and was to pass a physical as required for all paramedics. Mr. Rhodes failed the physical and was not offered a position and sued the County in Federal Court maintaining that the County discriminated against him. Last week, the County was successful in getting a dismissal of that case. There were no case laws to support Mr. Rhodes' position. Ms. Bechtel said it is important for Catawba County to maintain a high standard, and there were a lot of other counties looking at that case and tracking some important qualifications that Catawba County requires.

11. Manager's Report. None.

12. Other items of business.

a. Closed Session.

Mr. Lundy requested a Closed Session pursuant to NCGS 143-318.11 (a) (4) To discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body. Mr. Lundy said he did not anticipate any action after Closed Session.

At 8:42 p.m., Commissioner Hunsucker made a motion to recess into Closed Session pursuant to NCGS 143-318.11 (a) (4) To discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body. The motion carried unanimously.

At 9:40 p.m., Commissioner Hunsucker made a motion to return to regular session. The motion carried unanimously.

13. Adjournment.

At 9:40 p.m. there being no further business to come before the Board, Commissioner Barger made a motion to adjourn. The motion carried unanimously.

Katherine W. Barnes
Chair, Board of Commissioners

Thelda B. Rhoney
County Clerk